(22)

HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM: HON'BLE SHRI JAGDISH BHALLA, Ag.CJ. & HON'BLE SHRI DILIP RAOSAHEB DESHMUKH, J.

Miscellaneous Appeal (C) No. 812 of 2007

APPELLANTS/ CLAIMANTS :

1. Smt. Aruna Bai, W/o Late Rohit Kumar Thakur, aged about 30 years.
2. Yogesh Kumar, S/o Late Rohit Kumar Thakur, aged about 12 years.
3. Jhaneena Bai, D/o Late Rohit Kumar Thakur, aged about 10 years.
4. Gulshan, S/o Late Rohit Kumar Thakur, aged about 8 years.
5. Bana Thakur, S/o Late Lachchan Ram Thakur Aged about 65 years

Minor Appellant No.2 to 4 are represented by their Natural Guardian & Mother Smt. Aruna Bai, Appellant No.1.

All R/o Village Joratarai, Tehsil Gunderdehi, Thana Ranchirai, District Durg (C.G.)

VERSUS

RESPONDENTS:

1. Rohit Kumar Dewangan, s/o Tulsiram Dewangan, R/o 256 Chowk, Pandar Dalli (Dalli Rajhara) Tehsil & Thana-Dalli Rajhara, Durg, C.G.
(Driver of the Vehicle Swaraj Mazda bearing Regd. No. CG 08/B/0533)
2. Sandeep Kumar Jain, s/o Prakash chand Jain, R/o Village and Post Sambalpur, Tehsil and District Kanker (C.G.).
Present Address Kailash Nagar, Rajnandgaon, Tehsil & District Rajnandgaon, C.G.
(Owner of the Vehicle Swaraj Mazda bearing Regd. No. CG 08/B/0533)
3. National Insurance Company Limited, Through its Divisional Manager, National Insurance Company Limited, Akash Ganga, Supela Bhilai, Tehsil and District Durg, C.G.
(Insurer of the Vehicle Swaraj Mazda bearing Regd. No. CG 08/B/0533)

(23)

Appeal under Section 173 of Motor Vehicle Act, 1988

Present : Shri Avinash Sahu, counsel for the appellants.

ORAL ORDER
(Passed on 19th July, 2007)

The following oral order of the Court was passed by **Dilip Raosaheb Deshmukh, J.**

Heard.

The only point urged by learned counsel for the appellants in this appeal for enhancement of compensation in a case of accidental death is that the learned MACT erred in reducing 30% of the compensation towards contributory negligence of the driver of the truck in which the deceased was travelling. However, we are unable to agree with the contention of learned counsel for the appellants because the impugned award clearly shows that it is a case of head on collusion between two vehicles i.e. Swaraj Mazda and truck in which the deceased was travelling, which resulted in death of the deceased and therefore, the Tribunal ought to have deducted atleast 50% of the compensation towards contributory negligence. In that view of matter, we do not find any reason to interfere in the impugned award. The appeal being devoid of merit is dismissed at the stage of admission itself.

Sd/-
Ag Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge